

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI**

UNITED STATES OF AMERICA

V.

CRIMINAL NO. 3:09CR002-D-A-2

BOBBY B. DELAUGHTER

**MEMORANDUM OPINION AUTHORIZING THE DELIVERY
OF MATERIALS TO THE CIRCUIT COURT OF HINDS COUNTY, MISSISSIPPI**

The Court addresses a motion filed in the case *sub judice* by non-parties Frisby Aerospace, LLC, Jeffrey D. Frisby and Triumph Group, Inc. parties to a civil action, *Eaton Corporation, et al. v. Jeffrey D. Frisby, et al.*, Civil Action No. 251-04-642 CIV presently pending before Honorable W. Swan Yerger in the Circuit Court of the first judicial district of Hinds County, Mississippi (“Eaton v. Frisby”). It appears to this Court that the civil action *Eaton v. Frisby* has no jurisdictional connection with the Northern District of Mississippi. It does appear to the Court that the production of statements and/or testimony of Mr. Ed Peters as well as government investigative and grand jury materials might possibly relate to the civil action *Eaton v. Frisby*.

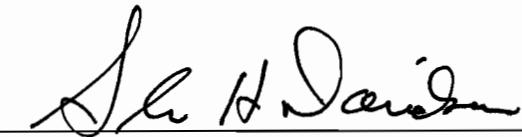
The motion addressed by the Court is unusual in that the moving parties are not parties to the case *sub judice*. Sound legal authority provides for the disclosure of such materials in a related judicial matter. Federal Rule of Criminal Procedure 6(e); *See Douglas Oil Co. v. Petrol Stops Northwest*, 441 U.S. 211, 221-22, 99 S.Ct. 1667, 1674, 60 L.Ed.2d 156 (1979); *Pittsburgh Plate Glass Co. v. United States*, 360 U.S. 395, 79 S.Ct. 1237, 3 L.Ed.2d 1323 (1959); *Shields v. Twists*, 389 F.3d 142, 147 (5th Cir. 2004); *In re Miami Federal Grand Jury No. 79-8*, 478 F. Supp. 490

(S.D. Fla. 1979); and *Allis-Chalmers Manufacturing Company v. City of Fort Pierce, Florida*, 323 F.2d 233 (5th Cir. 1963).

The Court given all of the circumstances involved in the motion presently addressed by the Court is of the opinion that the requested material should be provided under seal to Honorable W. Swan Yerger, Circuit Judge for and *in camera* inspection. This Court is of the opinion that the presiding judge in the *Eaton v. Frisby* case should make any determination as to whether a particularized need exists for the materials which outweighs the policy of continued grand jury secrecy in accordance with *Douglas Oil* and *Pittsburgh Plate Glass* along with other applicable authority.

This Court under a separate order under seal will provide the requested materials to Honorable W. Swan Yerger, Circuit Judge, Hinds County, Mississippi. The materials consist of those documents that form the basis for the government's response to the motion for production of Federal Rule of Evidence 404(b) material in the case *sub judice*. Subject materials are also being released under seal to Senior United States District Judge William H. Barbour, the presiding judge in a related criminal case pending in the Southern District of Mississippi.

Signed this the 21st day of September, 2009.



Shad H. Johnson
Senior United States District Judge